



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

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Michael O. Leavitt
Governor

Lowell P. Braxton
Division Director

m/027/032

FACSIMILE COVER SHEET

DATE: April 24, 2001

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TO: Sheri Wysong
BLM
Fillmore Office

FAX NUMBER: 1-435-743-3135

FROM: Jaele

Minerals Reclamation and Development Program

PHONE: (801) 538-5291

FAX: (801) 359-3940

SUBJECT: Red Dome - m/027/032 - 4/17/95 letter &
also a 6/1/98 letter.

REMARKS: We never responded to the 6/1/98 letter - so
we may be picking up the ball soon too.

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TRANSACTION REPORT

P. 01

APR-24-2001 TUE 09:31 AM

FOR: OIL, GAS & MINING

801 359 3940

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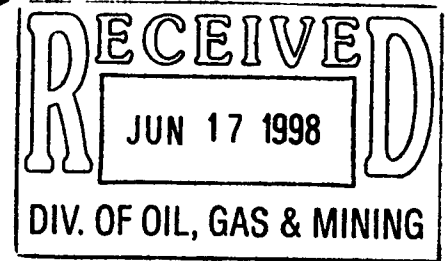
FAX NUMBER: 1-435-743-3135

FROM: Joelle

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June 1, 1998

State of Utah
Department of Natural Resources
Division of Oil, Gas and Mining
355 West Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203

Re: Red Dome Mining Claims, M/027/032, Millard County, Utah.

Gentlemen:

Will you please refer to your Memorandum to "Minerals File" dated April 29, 1994, by Mr. Travis Jones. On behalf of Red Dome Inc. and the Red Dome Mining Claims, I want to address a concern I have. I recently met with Mr. Tom Monsen from your department, on April 28th, 1998, and Mr. Ron Teseneer, of the Fillmore Office of the Bureau of Land Management at the Red Dome mining site, 5865 W 200 S, Fillmore, Utah 84631. Following that meeting I wrote a letter to Mr. Teseneer, which I want to incorporate into this letter by reference. It is attached hereto for that purpose.

As a result of that meeting, and my further research into the request for a revised or updated "Notice of Intention to Commence Large Mining Operations" for the areas in question, pursuant to the Mining laws of Utah, Title 40, Chapter 8 of the Utah Code Annotated as amended, and the Rules enacted pursuantly thereto, I now question whether or not the Act ever was, or is now applicable to the Red Dome mining operations or the Red Dome Mining Claims.

Section 40-8-4(3)(b) and (8)(b) of the Code and Rule R647-1-106 make it abundantly clear that the Act does not apply to "rock aggregate" mining operations, and never did. Red Dome Inc.'s mining operation is in fact a rock aggregate mining operation. The material is volcanic expanded obsidian material, commonly known as "cinders," though it is obsidian. It is mined from open pits without the removal of overburden or waste material. It is used as naturally found, in its natural form, for its natural characteristics. Some is used as is or pit run, and some is processed through a crushing and screening plant to "size" it into different sizes to meet certain

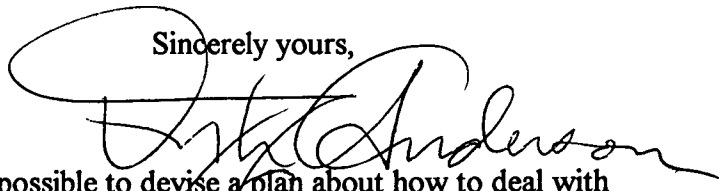
specifications of various users. Occasionally some of the material is hand sorted into size specifications. All of the material mined is used, and there is no left over tailings, waste rock, rejected materials, etc.¹ None of it has ever been, and none is now being, processed in any manner to extract any substance from it. Therefore it appears to me that under any definition of "rock aggregate" Red Dome Inc.'s mining operation on the Red Dome Mining Claims is exempt from the Act and your Rules. As you know sand or gravel mining is also exempt from the Act.

I have done considerable legal research into this question, and have found no cases that directly define the term "rock aggregate" in Utah. The one case that mentions the term, i.e. Larson Limestone Company vs. State of Utah, Division of Oil Gas and Mining, 903 P.2d 429, 274 Utah Adv. Rep. 3, does give some insight. The deciding fact there was that the company had to remove volumes of low grade limestone to extract the high grade limestone which was their quest. Because of that fact, the Supreme Court found the mine to be within the jurisdiction of your Department. It seems clear to me that Red Dome's mining operation and quest are distinguishable from that of Larson Limestone Company's and puts Red Dome's operation squarely within the "rock aggregate" exemption, in that all material mined is used in its natural form, for its natural characteristics as stated above. None of it is removed to get at a high grade material. It is mined, crushed and screened where applicable, in exactly the same way the common sand or gravel mine operates in its quest for sand or gravel which is also used in its natural form for its natural characteristics for various purposes. "[R]ock aggregate" mining is exempt and the term must be given a meaning within the statute in addition to the meanings given to the terms "sand" and "gravel."

I am sure you are reluctant to accept Red Dome Inc.'s operations as being exempt, because of your perceived duty to enforce the provisions of the act as you see it. The possibility that a exemption recognized would detract from your scope of authority would understandably be a concern to you. But may I suggest that you should not be concerned about this operation that is clearly not within the scope of the act as written. I am sure you agree with the recent statement by the Utah Court of Appeals in Brown v. Sandy City Bd. Of Adjustments, 339 Utah Adv. Rep. 13 where the Court said in effect that a common law right of a property owner is, unrestricted use of his property and provisions restricting property uses should be strictly construed and provisions permitting property uses should be liberally construed in favor of the property owner.

While I am not asking you to render an official opinion on the definition of "rock aggregate," as I believe that would be a question for the Court to decide and not within your authority, I am asking you to recognize the plain meaning of the exemption in the case of Red Dome Inc.'s operations on the Red Dome Mining Claims, and cease demanding compliance.

Sincerely yours,

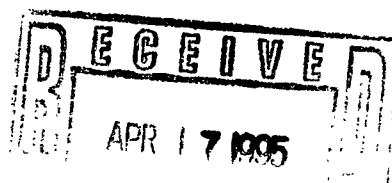


¹This fact is exactly why it is not possible to devise a plan about how to deal with overburden, waste rock, tailings etc. as called for and assumed in your form, "Notice of Intention to Commence Large Mining Operations". The requirements of reclamation are simply not applicable to the Red Dome mining operations.

M/027/032

Gordon D. Griffin
President Red Dome, Inc.
7 Ramshorn Court
Savannah, Georgia 31411
(912) 598-7010
April 10, 1995

Mr. D. Wayne Hedberg
Permit Supervisor
Minerals Regulatory Program
State of Utah
Department of Natural Resources
Division of Oil, Gas and Mining
355 West North Temple
3 Triad Center, Suite 350
Salt Lake City, Utah 84180-1203



IN RE: Review of Plan of Operations, Red Dome Volcanic Cinders, Red Dome, Inc.,
M/027/032. UT.-055-91-01. Millard County, Utah

Dear Wayne:

So sorry to have had to cancel my Tuesday appointment with you on March 31st. It was just as well my plans fell apart as upon my return I developed a severe cold and have been in bed most of the time since.

Enclosed are some comments which I have been able to make and as requested I have tried to keep to your letter type of format.

R-647-4-105 Maps, Drawings & Photographs

105.1 Topographic base map, boundaries, pre-act disturbance

By the very nature of plant growth and the over sixty years of mining it becomes self evident that Red Dome, inc. is the first entity to commence systematic correct mining procedures in the designated area on maps supplied.

105.2 Surface facilities map

How can mining become complete when there is 120 million tons of foamed obsidian weighing approximately 1,000 pounds per cubic yard and has a life of approximately 4,000 years yet to go? It becomes self evident that areas will only be temporarily not mined for logistical and safety reasons while benching the product being taken out. It's hard to plan for something that's not going to happen. The lightweight cinders do not hold moisture for long. Vegetation is sparse - topsoil is sporadic and can hardly be called topsoil, rather blown sandy mix what there is of it. What was the pre cover? None over most of the area would be a very fair statement.

By all means correct the acreage - though we have temporarily abandoned the Green Southern Area and reclaimed and seeded it according to your suggestions.

We do not have expertise or financial resources to do surveys - With one nine

month a year full time employee - and up to two part time - we have limited manpower - We are at risk of being pushed into insolvency by having to do things that various state and federal government agencies find costly things for us to fulfill and that are potentially unworkable or unnecessary.

We ourselves have never created any new roads. The extension of the county road to our site was always there and often used by tourists wanting to go up to the top of the volcano.

R647-4-106 Operation Plan

106.5 Existing soil types, location, amount

Will you pay cash or have the analysis done direct - Sand is sand. There never has been much growth activity at any time.

Present "soil" is bermed, or was, until we redistributed it in a roughened manner as proposed by your office. It has been seeded too, as suggested.

R647-4-110 Reclamation Plan

110.1 Current & post mining land use

It becomes self evident that the area will not support any measurable wildlife - the odd rabbit, rat or mice in the lower areas perhaps. Dryness and very high surface temperatures in summer determine this limit.

110.2 Roads, highwall, slopes, drainages, pits, etc. reclaimed

We do not believe that the stockpile area and roads will be abandoned for upwards of 500 years. This is because cinder deposits to the West are very much higher than the storage area and roads.

110.5 Revegetation planting program

We feel that the present area to the North of the stockpile area will be on going for at least twenty to twenty-five years and indeed on a stepping basis, over five hundred years. The cinder deposit has been exploited for over sixty years now, and will continue to be, indefinitely. However, we do agree that in the event of a short term cessation of activity in any one particular area. That area will be reclaimed in a manner consistent with the spirit of your requirements and for safety.

R647-4-111 Reclamation Practices

111.1 Public safety & welfare

There are no roads above the existing highwall.

We have and continue to make headway against the old left over trash and debris with its removal.

1.15 Constructing berms/fences above highwalls

We are not aware of any rocks within the highwall, it being close packed lightweight cinders. Access to base of highwall would have to be deliberate and cannot be reached easily.

R647-4-112 Variance

We are in the process of revegetation after striving to reduce our overall acreage that is disturbed or falls within the controlled area so as to reduce our financial exposure for reclamation bonding. Having reclaimed the Green area of 5.86 acres.

R647-4-113 Surety

Noted, there probably was a discrepancy if you have done a more accurate measurement of the plans, my estimate was an on site visual and roughly measured basis. It is the never returnable, ever escalating, non-interest earning - unassumable, un-bondable, perpetual surety that is the most concern to us, in the matter of your financial reclamation requirement.

R-647-116 Public Notice & Appeals

We are very concerned that the excessive reclamation and vegetation costs and unrealistic assumptions will lead to our inability to meet the financial requirements.

We feel that our situation is unique and that we are carrying out a responsible operation to continue to recover product for the county. We wish to inquire the necessary procedures for objections and to what extent we might by law be able to take the probably necessary steps.

We do appreciate that you probably have a rigid state law to enact. However, we also have a responsibility to look at the realities and the logistical and financial aspects of that law as it effects us and our unique situation and seek to minimize its unrealistic goals in our unique situation. We certainly wish to survive as a viable entity in our local depressed area of the state.

RECLAMATION ESTIMATE

We back filled the Green Area with a hired in dozer for a cost of \$1,100. Seeding costs were \$250. For a total cost of \$1,356 for the 5.86 acres reclaimed. We fail to see justification of costs to rough up cinders that are so light a material as to need only the lightest of machinery to disturb it.

The balance of Red and Yellow has no significant top material available. grading and benching for safety is the only practical solution in the Yellow area while adjacent areas are mined prior to moving back on a step and benching basis.

You will appreciate that we have many other state or federal government agencies that visit us for all manner of regulations and tax matters. We pride ourselves in substantially meeting all the many and varied requirements despite our small size.

We have talked to our bank as to the bonding aspect of your proposals. They see no possibility of their being able to help. My proposal is that as we have demonstrated the actual costs of reclaiming the Green area (your estimate 5.86 acres), that our reduced working and storage area be nominally bonded for \$3,000. This being forever, more money lost and down the drain, so far as we are concerned.

We arrive at this figure by realizing that the already reclaimed 5.86 acre Green Area indicates the same approximate costs for reclaiming Yellow, Red areas. It would cost very little additional and becomes self evident due to the fact of there being no or very little available or natural soil in the Yellow and Red areas and that a hired dozer

could complete the smoothing out of necessary area and any ripping necessary on any road access areas (Subject to BLM and Fillmore City approval to cut off road access to Volcano peak area.) Say \$2,000 including any seeding amongst the loose cinders in areas that had a hope of germinating, plus an allowance of \$1,000 for contingencies, removal of trash and debris over the 11.84 acres.

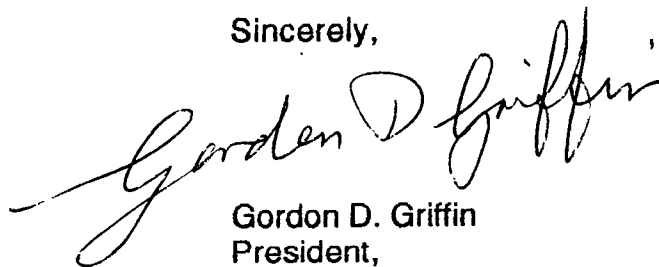
The removal of one or two power poles beyond the end of the county road is not anticipated to be required - due to the nature of the site and its overall continued usage over many hundreds of years to come - The City of Fillmore and Millard County would certainly not be in favor of this removal either, as both periodically required product for winter road de slicking.

The funding of the \$3,000 non returnable amount would be possible. It would not be a pleasant thing for me to accomplish in view of the prevailing and future condition - where cessation of cinder use and mining is so remote as to be a practical impossibility. More especially, as we have established a market for a coal mine safety device to support mine roofs with our cinder being the main compressible ingredient.

We hope that this suggested realistic compromise to our difficulties is acceptable.

Kindest wishes to you and your staff.

Sincerely,

A handwritten signature in cursive script that reads "Gordon D. Griffin". The signature is written in dark ink and is positioned above the printed name and title.

Gordon D. Griffin
President,
Red Dome, Inc.

GDG/mr